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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

AUG 17 1989

Joseph E. Micucci, D.D.S.
Bellevue Medical Building
660 Lincoln Avenue
Pittsburgh, Pennsylvania 15202

Dear Dr. Micucci:

This letter responds to your July 30, 1989, request for information regarding the regulatory status of scrap dental amalgam under the Resource Conservation and Recovery Act (RCRA) and potential liability under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). These issues will be addressed separately.

Dental amalgam is not specifically listed as a hazardous waste under RCRA. The burden on the generator is to then determine whether the amalgam exhibits a characteristic of a hazardous waste. You indicated in your letter that the American Dental Association (ADA) has conducted research that indicates that amalgam does not exhibit the characteristic of EP toxicity. If true, the amalgam would not be a hazardous waste. However, the responsibility for determining the regulatory status of a waste is borne by the individual generator (who may cite the ADA research as applying knowledge of his waste in determining the regulatory status).

You also state that your collections of amalgam for recycling or refining are not expected to exceed 100 kg per month. A generator (in this case, the dentist or dental supply house) of less than 100 kg per month of total hazardous waste (not any one particular hazardous waste) or 1 kg per month of acute hazardous waste is considered a conditionally exempt small quantity generator. The wastes generated by such a generator is exempt from regulation provided the generator complies with the provisions found at 40 CFR 261.5. If, however, the amalgam is not a hazardous waste, this exempt status would not apply since there would be no need for the exemption.

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